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June 18, 2001

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JUN 18 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BY HAND
Magalie Roman Salas, Esquire
Secretary
Federal Communications Commission
The Portals
445 12th Street, SW, Room TWB204
Washington, D.C. 20554

Re: CC Docket 96-45
Supplement to Petition for Limited Waiver
Roseville Telephone Company

Dear Ms. Salas:

Enclosed, on behalf of Roseville Telephone Company, please find an original and three copies of a Supplement to Roseville's Petition for Limited Waiver of Section 54.309 of the Commission's Rules, which was filed on November 13, 2000.

Please contact me if you have any questions or need any further information.

Very truly yours,

Paul Feldman

Paul J. Feldman
Counsel for
Roseville Telephone Company

PJF:jpg

Enclosure

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Before the
Federal Communications Commission
Washington, D.C. 20554

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JUN 18 2001

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of	)	
	)	CC Docket 96-45
Petition of Roseville Telephone Company	)	
	)	
For a Limited Waiver of Section 54.309 of The Commission's Rules	)	

SUPPLEMENT TO PETITION FOR LIMITED WAIVER

Roseville Telephone Company ("Roseville"), by its attorneys, hereby supplements the record in regards to its Petition for Limited Waiver of Section 54.309 of the Rules, filed on November 13, 2000 ("Waiver Petition"). Significant regulatory developments have occurred subsequent to the filing of the Waiver Petition which will impact the application of high cost support policies on Roseville, and which also should impact the Commission's evaluation of the Petition.[1] Accordingly, Roseville brings some of these matters to the Commission's attention, and also requests that the terms of its requested waiver be modified, so that Roseville be given an on-going waiver to be treated as a "rural" carrier for purposes of federal high cost support rules and policies, rather than having the waiver extend only until the Commission acts on Roseville's pending petition for reconsideration of the Tenth Report and Order in CC Docket 96-45.

[1] These regulatory developments are the issuance of 1) Notice of Proposed Rulemaking in the Matter of Multi-Association Group Plan, FCC 00-448 (released January 5, 2001) ("MAG NPRM"); 2) Fourteenth Report and Order, Twenty Second Order on Reconsideration, and Further Notice of Proposed Rulemaking in CC Docket 96-45, FCC 01-157 (released May 23, 2001) ("RTF Order"); and 3) Order, In the Matter of Puerto Rico Telephone Company, DA 01-1353, released June 12, 2001 ("PRTC Order").

I. Introduction

Roseville is an incumbent local exchange carrier in northern California serving subscribers in 83 square miles, and has been providing high quality communications services to its subscribers for over 85 years. The company currently serves approximately 132,000 access lines.[2] This figure places Roseville a mere 32,000 access lines above the definition of a "rural" telephone company.

In the Tenth Report and Order in CC Dockets 96-45 and 97-160 the Commission stated that the "Rural"/Non-Rural" distinction (100,000 lines) would be used as the dividing point between those companies which would receive new explicit high-cost funding under the forward-looking cost model ("large companies"), and those that would be subject to a proceeding after the filing of the RTF's Recommendation ("small companies"). In its December 30, 1999 Petition for Reconsideration of that decision, Roseville suggested that the Commission change the break point between large and small companies to one that recognizes that the smallest of the non-rural study areas experience financial impacts more like those of the rural carriers than those of the giant RBOCs. Roseville proposed that this distinction be based either on the definition of a "rural carrier" as used in Section 251(f)(2) of the 1996 Act (*i.e.*, those carriers with less than two percent of the nation's subscriber lines), or on use of 200,000 access lines as the break point, based on the importance of that figure in the Part 36 USF rules.

Recognizing that the Commission was unlikely to act on that Petition for Reconsideration prior to the January 1, 2001 commencement of the hold-harmless

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[2] Roseville's Study Area covers 123,000 "subscriber loops", as set forth in the NECA Fourth Quarter 2000 Administrative Filing, Appendix HC1. The difference between the number of "access lines" and the number of "subscriber loops" is that several services are not included in the count of "subscriber loops", including remote call forwarding, special access and WATS.

phase down of USF, Roseville filed its Waiver Petition in November of 2000.[3] In the Waiver Petition, and in subsequent filings, Roseville has demonstrated that it is by far the smallest of the "non-rural" LECs.[4] Roseville is the only non-rural company receiving hold-harmless support that is not part of one of the "Big 5" holding companies. The gap between Roseville and these other companies in terms of lines served and the number of central offices owned is truly staggering as shown on the following chart:

Company	**Loops** (000)	**Wire Centers**
Verizon	62,276	6,248
SBC	58,919	3,217
BellSouth	24,780	1,591
Qwest	6,884	1,259
Sprint	7,874	1,371
Roseville	**123**	**2**

In addition to being hundreds to thousands of times smaller on a company basis, Roseville's single study area is the second smallest "non-rural" study area receiving hold-harmless support.[5] Furthermore, Roseville is the only "non-rural" carrier permanently regulated as a rate-of-return carrier.[6]

As previously discussed at page 3 of its Waiver Petition, Roseville's annual USF cost per line is in excess of 115% of the nationwide average cost for all carriers (rural and non-rural). As a result, under Part 36 of the Rules, Roseville received approximately $1.7 million in USF support in 2000. However, when the Commission

[3] A copy of the Waiver Petition is attached to this Supplement.
[4] *Id.*

[5] The only smaller study area is Contel of Alabama dba GTE Alabama, a Verizon study area serving 647 less loops than Roseville.
[6] The Common Carrier Bureau recently waived Section 61.41 of the Rules to allow the Puerto Rico Telephone Company to remain a rate-of-return carrier until July 1, 2002. *See* PRTC Order. PRTC's parent company, Verizon, is a price cap carrier.

released the results of the forward-looking economic cost model,[7] it showed Roseville with a cost of 90% of the nationwide average cost for all non-rural carriers.[8] Accordingly, under the Commission's new non-rural plan, Roseville receives no high-cost support. While, due to the hold-harmless provisions of the Ninth Report and Order in CC Docket 96-45, Roseville continued to receive some USF support, that support is being phased down and will be completely eliminated.

In its Waiver Petition and Petition for Reconsideration, Roseville explained its concern about the application of the Commission's proxy cost model to small companies such as itself. The input factors used in the model are based upon data from the RBOCs, and necessarily reflect the scale and scope economies of a company their size. As previously noted in both the Waiver Petition and the Petition for Reconsideration, since Roseville has neither the size nor the scope of the "Big 5" holding companies, it is reasonable to conclude that the model is likely to be seriously flawed related to Roseville's cost. Furthermore, as noted in Roseville's pending Petitions, the Rural Task Force concluded, based upon an extensive analysis, that the model is not sufficiently precise at the individual wire center level for use in determining support requirements for LECs (such as Roseville) with relatively few wire centers.

The FCC has historically provided a higher level of high cost support to smaller LECs. Since 1987 the FCC has defined small LECs as those with a study area serving less than 200,000 lines. Study areas below this level receive **6 ½ times more** explicit

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7 *Public Notice,* DA 00-110 (released January 20, 2000), in CC Dockets 96-45 and 97-160.

8 The FCC data only included forward-looking costs for non-rural carriers. If the costs for both rural and non-rural carriers were included in the calculation of nationwide average forward-looking cost, Roseville's percentage of that nationwide average would be less than 90%.

federal support than would a study area with similar cost characteristics but more than 200,000 lines.[9] Roseville is one of five non-rural study areas with less than 200,000 lines. The other four are owned by Verizon.

As a result of this higher level of federal support, small companies, including most rural ILECs, have lower intrastate rates than would be the case without this support. The following chart shows the significantly higher reliance that Roseville has on this federal support than the other non-rural carriers:

COMPANY	**USF as % of Loop Rev. Req.**
Verizon	0.54%
Verizon (w/o PR)	0.19%
SBC	0.03%
BellSouth	0.18%
Qwest	0.29%
Sprint	0.10%
Roseville	**6.68%**

Accordingly, Roseville's reliance on federal high cost support as a percentage of loop revenue requirements is **12 to 222 times** higher than the other non-rural LECs. Yet while Roseville's reliance on high cost support is substantially outside the range of the other non-rural carriers, it is well within the range of rural carriers.

In sum, Roseville's Waiver Petition and subsequent filings on that Petition have demonstrated that, in addition to the special circumstances regarding its much smaller size and much greater reliance on federal support than other "non-rural" carriers, there are compelling reasons that grant of the relief requested in the Waiver Petition would be in the public interest:

- Under the Part 36 rules, Roseville qualifies for explicit federal support of $1.65 per line per month.[10] This support goes to offset intrastate revenue

[9] *See* Section 36.631 of the Commission's Rules.

requirements, meaning that absent this support, local residential rates would need to increase from $18.90 to $20.55. Consumer advocacy groups and Roseville subscribers would certainly consider such an increase to be significant and thus contrary to the public interest.

- Allowing Roseville to continue receiving support under the same rules as other similarly situated rate-of-return carriers would not harm other parties since Roseville's $2.4 million of annual federal high cost support constitutes less than 0.3% of the total USF. In contrast, rates to Roseville consumers would need to increase almost 9% to offset the loss of this support.

However, actions taken by the Commission subsequent to the filing of the Waiver Petition have made the case for grant of the Petition even more compelling. Similarly, it now makes sense to modify the terms of the requested waiver to provide that Roseville be treated as a "rural" carrier for purposes of federal high cost support rules and policies on a conditional but on-going basis, rather than having the waiver extend only until the Commission acts on Roseville's pending petition for reconsideration of the Tenth Report and Order in CC Docket 96-45.[11] These matters are discussed below.

II. Subsequent Commission Actions

A. MAG NPRM

Roseville is a rate-or-return carrier. This is significant since the Commission issued in January of 2001 a notice of proposed rulemaking on the MAG Plan which, as stated in the NPRM "...sets forth an interstate access reform and universal service proposal for incumbent LECs subject to rate-of-return regulation".[12] The other non-rural

[10] Source: USAC Quarterly Administrative Filing 1Q01, Appendix HC1. This filing shows $204,081 of monthly support ($2.4M annually), or a per line amount of $1.65. This is an increase from the support indicated on the 4Q00 report.

[11] While Roseville believes that the waiver requested should be effective on an on-going basis, rather than just until Commission action on reconsideration of the Tenth Report and Order, Roseville recognizes that if it were to become a large company, such a waiver might no longer be appropriate. Accordingly, Roseville proposes that the on-going waiver be conditioned on Roseville continuing to have less than 200,000 subscriber loops.

[12] MAG NPRM, *supra* note 1, at paragraph 1 (emphasis added).

companies are price cap regulated, and have recently gone through comprehensive universal service and access reform through the CALLS proposal. The Commission clearly believes that as a policy matter, access charge reform for rate-of-return companies must be approached in conjunction with high cost support policy for those companies, in a comprehensive and holistic manner. Such a goal cannot be achieved in the case of Roseville if the company is subject to access policies designed for similarly situated small rate-of-return companies, while at the same time being subject to high cost support policies designed for large price cap companies.

B. RTF Order

On May 23, 2001, the Commission released its RTF Order, which enacted new high cost support rules for small ("rural") carriers. That Order adopted in large part the Recommendations of the Rural Task Force, which demonstrated in detail how it is not appropriate to apply the Commission's proxy model to smaller and rural carriers. As demonstrated in Roseville's Waiver Petition and subsequent filings, Roseville's cost structure, size, and its resulting lack of economies of scale and scope, are similar to those of the rural companies, but are in no way related to those of non-rural companies thousands of times the size of Roseville. Accordingly, it is clearly more appropriate to regulate Roseville's high cost support under the principles of the RTF Order than under principles designed for the larger companies.[13] The RTF Order also re-affirmed the

[13] That Order also recognized (at note 3) that there is no statutory requirement to use the definition of "rural telephone company" (*i.e.*, 100,000 access lines) as the basis for distinguishing between large and small companies for purposes of federal high cost support.

integral relationship of reform of high cost support for small companies with access reform for such companies.[14]

C. PRTC Order

Lastly, it should be noted that the Commission's staff has suggested to Roseville that its situation may, in important ways, be indistinguishable from that of the Puerto Rico Telephone Company. Yet, the Common Carrier Bureau has recently recognized the need to address the high cost support needs of PRTC in the complex regulatory environment of holistically related high cost support and access reform. In the PRTC Order, the Commission granted a petition for waiver which (for the second time) allowed PRTC to remain a rate-of-return company for one year so that PRTC may continue to receive a form of high cost support ("Long Term Support") available only to ROR carriers. In paragraph 7 of that Order, the Bureau stated that grant of relief to PRTC was appropriate since the Bureau required more time to consider the impact of the MAG proposal before finally ruling on PRTC's request to remain a ROR carrier. Roseville is in a similar position: the Commission must consider the impact of MAG before denying Roseville the high cost support which is appropriate for it. In addition, the Bureau notes in the PRTC Order that it needs time to evaluate the unanswered question regarding the application of the CALLS plan to new carriers just becoming price cap carriers. In the case of the present Waiver Petition, the Commission certainly must consider the impact of its "non-rural" high cost support policies on companies that grow over the 100,000 line mark. In essence, Roseville is such a company, and it is likely that more such companies will be in this position in the next few years.

[14] *See, id.* at para. 205 ("Our consideration of these issues in the MAG proceeding will be informed by the Rural Task Force's recommended principles, which we will incorporate into that docket....")

In sum, significant actions taken by the Commission subsequent to the filing of the Waiver Petition will impact the application of high cost support policies on Roseville, and should impact the Commission's evaluation of the Waiver Petition. The MAG proceeding will substantially reform Roseville's access charges, yet the rules revised in that proceeding are designed to be considered holistically with reform of high cost support that will not be made available to Roseville without grant of the Waiver (or grant of Roseville's Petition for Reconsideration). The RTF Order recognizes that high cost support for carriers similar in size and cost structure to Roseville must be very different than the support for large carriers, yet Roseville is improperly excluded from the application of the RTF Order without grant of the Waiver. Lastly, the Common Carrier Bureau has recently granted a waiver which will allow PRTC to continue to receive high cost support, in recognition of this complex regulatory environment of holistically related high cost support and access reform.

III. Conclusion

Based on the foregoing, and the record developed in this proceeding, Roseville urges the Commission to grant its waiver of Section 54.309 of the Commission's rules, so that Roseville may continue to receive federal high cost support as appropriate under Part 36 of the Commission's rules. While regulatory distinctions must be drawn somewhere, it is clear that Roseville, and Roseville alone, has been improperly placed in a category of "Big 5" carriers hundreds to thousands of times its size. The consequence is loss of high cost support that will certainly result in a substantial increase in local rates for Roseville subscribers. In addition, significant actions taken by the Commission subsequent to the filing of the Waiver Petition will impact the application of high cost support policies on Roseville, and should impact the Commission's evaluation of the Waiver Petition.

Accordingly, the Commission should grant Roseville's request for a waiver. While Roseville believes that the waiver requested should be effective on an on-going basis, Roseville recognizes that if it were to become a large company, such a waiver might no longer be appropriate. Accordingly, Roseville proposes that the on-going waiver be conditioned on Roseville continuing to have less than 200,000 subscriber loops. Roseville believes that the record herein and the Commission's actions support modification of the terms of the waiver, so that Roseville should be given an on-going waiver to be treated as a "rural" carrier for purposes of federal high cost support rules and policies, rather than having the waiver extend only until the Commission acts on Roseville's pending petition for reconsideration of the Tenth Report and Order in CC Docket 96-45.

Respectfully submitted,

ROSEVILLE TELEPHONE COMPANY

Paul Feldman

Paul J. Feldman, Esq.

Its Attorney

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June 18, 2001

ATTACHMENT

Roseville's November 13, 2000 Petition

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NOV 13 2000

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C.

In the Matter of	)
	)
Petition of Roseville	)
Telephone Company	)
	)
For a Limited Waiver of	)
Section 54.309 of	)
The Commission's Rules	)

PETITION FOR WAIVER

ROSEVILLE TELEPHONE COMPANY

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November 13, 2000

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SUMMARY

In this Petition, Roseville Telephone Company seeks a limited waiver of Section 54.309 of the Commission's Rules, to allow it to continue computing its Federal high-cost loop support using the rules contained in Part 36 Subpart F subsequent to the elimination of "hold-harmless" support, pending the Commission's action on Roseville's Petition for Reconsideration ("PFR") of the Commission's Tenth Report and Order in CC Dockets 96-45 and 97-160. In that PFR Roseville has requested that the Commission reconsider and modify the dividing point between "large" and "small" carriers for purposes applying the Commission's forward-looking cost model for "non-rural" carriers in the determination of universal service support. Should the Commission grant the relief requested in the PFR, Roseville's federal high-cost loop support would be determined according to the Part 36 Rules, and not by the Commission's forward-looking cost model. Grant of this Petition for Waiver would serve the public interest by preventing the loss of Federal high-cost support to Roseville pending Commission consideration of Roseville's PFR. Such a loss of support would put unnecessary pressure on rates paid by Roseville's subscribers for basic service.

Roseville will receive $1.7 million in Federal high-cost support in the year 2000, which is a very important source of funding to a company such as Roseville, where it constitutes approximately 6% of basic local service revenues. Yet, under the policies enacted in the Ninth Report and Order in CC Docket 96-45, Roseville may lose all of this Federal high cost support. Loss of this support will result in an increase in basic rates paid by Roseville's residential subscribers of around 6%. To date, Roseville has not lost the support, due to the "hold-harmless" provisions contained in Ninth Report and Order. However, it is expected that the Commission will soon rule on the phase-

out of hold harmless support, with implementation occurring as soon as January 1, 2001. Unfortunately, the many items currently before the Commission make it highly unlikely that the Commission will be able to rule on Roseville's PFR prior to the first of the year. Absent the requested waiver, Roseville will lose its high-cost support, and will have to recover that amount from its local subscribers. The possible loss of Federal support on January 1, 2001, and the subsequent need to recover costs from local subscribers, will be unnecessary and unfortunate if the Commission subsequently grants Roseville's PFR. Yet, based on the strength of the arguments set forth in the PFR, Roseville believes that there is a significant likelihood that the Commission will grant the PFR.

In regards to the facts that are relevant for high-cost support policy, Roseville is unique among the universe of non-rural carriers. Roseville is the smallest non-rural LEC. Roseville's study area is the second smallest non-rural study area, and it is the only non-rural study area that is not part of a large holding company. Roseville has only two central offices, while all other non-rural study areas are served by large holding companies with over 1,000 central offices. Furthermore, Roseville is the only non-rural company currently receiving Federal support that is a rate-of-return carrier. Thus, grant of this waiver will allow for holistic consideration of Roseville's universal service and access reform needs, as the Commission addresses the recently filed Multia-Association Group ("MAG") Access Plan.

Before the
Federal Communications Commission
Washington, D.C. 20554

In the Matter of	)
	)
Petition of Roseville Telephone Company	))
	)
For a Limited Waiver of Section 54.309 of The Commission's Rules	)))

PETITION FOR LIMITED WAIVER

Roseville Telephone Company ("Roseville"), by its attorneys and pursuant to Section 1.3 of the Commission's Rules, hereby petitions the Commission for a limited waiver of Section 54.309 of the Rules, to allow it to continue computing its Federal high-cost loop support using the rules contained in Part 36 Subpart F subsequent to the elimination of "hold-harmless" support, pending the Commission's action on Roseville's Petition for Reconsideration ("PFR") of the Commission's Tenth Report and Order in CC Dockets 96-45 and 97-160. In that PFR Roseville has requested that the Commission reconsider and modify the dividing point between "large" and "small" carriers for purposes of applying the Commission's forward-looking cost model for "non-rural" carriers in the determination of universal service support. Should the Commission grant the relief requested in the PFR, Roseville's federal high-cost loop support would be determined according to the Part 36 Rules, and not by the Commission's forward-looking cost model. Grant of this Petition for Waiver is warranted as the relevant facts regarding Roseville present special circumstances that support a deviation from the rule, which will serve the public interest by limiting potentially unnecessary pressure on rates paid by Roseville's subscribers for basic local services.

I. Introduction and Background

In order to understand the context and significance of this Petition for Waiver, it is necessary to review Roseville's relative costs of providing service, its pending Petition for Reconsideration in CC Docket No. 96-45, the Recommendation of the Rural Task Force, and the recently filed MAG Plan for the comprehensive reform of access charges and universal service for rate-of-return LECs. These matters are each discussed below.

A. Roseville's Costs of Providing Service and High-Cost Support.

Roseville is an incumbent local exchange carrier in northern California serving subscribers in 83 square miles, and has been providing high quality communications services to its subscribers for over 85 years. Unlike other "non-rural" carriers with thousands of central offices, Roseville has two central offices: Roseville and Citrus Heights. The company currently serves approximately 132,000 access lines.[1] This figure places Roseville a mere 32,000 access lines above the definition of a "rural" telephone company. It is the smallest of the "non-rural" LECs.[2] Its single study area is the second smallest "non-rural" study area receiving hold-harmless support.[3]

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[1] Roseville's Study Area covers 123,000 "subscriber loops", as set forth in the NECA Fourth Quarter 2000 Administrative Filing, Appendix HC1. The difference between the number of "access lines" and the number of "subscriber loops" is that several services are not included in the count of "subscriber loops", including remote call forwarding, special access and WATS.

[2] *Id.*

[3] The only smaller study area is Contel of Alabama dba GTE Alabama, a Verizon study area serving 647 less loops than Roseville.

As reported by NECA, Roseville's annual USF cost per line is $310.97 or 130% of the nationwide average cost of $239.48 for all carriers (rural and non-rural).[4] Because Roseville's cost is in excess of 115% of the nationwide average, Roseville will receive approximately $1.7 million in USF support in 2000. When the FCC released the results of the forward-looking economic cost model on January 20, 2000,[5] it showed Roseville with a cost of $20.97 per month, or 90% of the nationwide average cost of $23.35 for all non-rural carriers.[6] Accordingly, under the Commission's new non-rural plan, Roseville would receive no high-cost support. However, due to the hold-harmless provisions of the Ninth Report and Order, Roseville has continued to receive USF support in 2000.

Roseville was extremely surprised by the severe impact of the non-rural support rules and model on the company's Federal high-cost support, and an examination of the results leads to two significant findings. First, under the current USF rules, study areas with under 200,000 lines receive six and one half times more support than study areas with similar costs but serving more than 200,000 lines. Roseville and four other non-rural study areas with less than 200,000 lines receive 65% of costs in excess of 115% of the nationwide average.[7] Most non-rural study areas serve well in excess of 200,000

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[4] NECA 1999 Submission of 1998 Study Results.

[5] *Public Notice,* DA 00-110, in CC Dockets 96-45 and 97-160.

[6] The FCC data only included forward-looking costs for non-rural carriers. If the costs for both rural and non-rural carriers were included in the calculation of nationwide average forward-looking cost, Roseville's percentage of that nationwide average would be less than 90%.

[7] *See* Section 36.631 of the Commission's rules. For the study areas referred to, *see* the chart on page 12 *infra.*

lines and under the rules receive only 10% support.[8] This helps to explain why the proportional impact on Roseville is more severe than on most other non-rural carriers. Since virtually all rural study areas are under 200,000 lines and receive 65% support, Roseville and the other under-200,000 line non-rural study areas losing federal support would experience an impact more like their rural brethren, than like the loss of 10% support for the large RBOC study areas. It was due, in part, to this significantly greater impact that the Joint Board and the Commission decided to address the universal service funding and transition issues of the smaller carriers separately from those of the large holding companies.

The second task for Roseville was to analyze why its embedded costs were 130% of the nationwide average, but under the FCC's model its forward-looking costs were only 90% of average for non-rural carriers. While Roseville has not performed a detailed analysis of the input to the model, Roseville believes that this flawed result occurs due to the model's use of a single nationwide set of cost input factors based upon RBOC data. This results in a serious underestimation of costs for a small company such as Roseville, which has nowhere near the same economies of scale and scope as an RBOC. Consistent with that analysis, the Rural Task Force Recommendation specifically lists differing economies of scale and scope as significant reasons why the FCC's forward-looking model is not appropriate for rural carriers.[9] In addition, the Rural Task Force notes the difficulty of applying the forward-looking model to companies with very few wire centers. *See infra* page 7.

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[8] *Id.*

[9] *See* Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service, Page 12.

B. Roseville's Pending Petition for Reconsideration

In the Tenth Report and Order in CC Dockets 96-45 and 97-160 the Commission stated that the "Rural"/Non-Rural" distinction (100,000 lines) would be used as the dividing point between those companies which would receive new explicit high-cost funding under the forward-looking cost model ("large companies"), and those that would be subject to a proceeding after the filing of the RTF's Recommendation ("small companies"). In its December 30, 1999 Petition for Reconsideration of that decision, Roseville suggested that the Commission change the break point between large and small companies to one that recognizes that the smallest of the non-rural study areas experience financial impacts more like those of the rural carriers than those of the giant RBOCs. Roseville proposed two alternative ways in which the Commission could address this issue;

- Utilize the definition of a "rural carrier" as used in Section 251(f)(2) of the 1996 Act (*i.e.*, those carriers with less than two percent of the nation's subscriber lines), or
- Use 200,000 access lines as the break point, based on the importance of that figure in the Part 36 USF rules.

In the Petition and in several ex-parte presentations since the filing, Roseville has advanced compelling arguments as to why such a revision of the rules would make sense and would serve the public interest:

- 200,000 lines is consistent with the significant break point for support determination in the current USF rules.

- Study areas with less than 200,000 lines receive proportionally six and one-half times the support of larger areas with comparable costs, and experience transitional issues more similar to the rural companies.
- Small and mid-size LECs lack the economies of scale and scope of the huge RBOC holding companies upon which the forward-looking cost model was based.
- The Commission has determined that there is no statutory requirement to use the rural/non-rural distinction as the break point for high-cost support.[10]
- And most recently, the Rural Task Force has concluded based upon a comprehensive study that the forward-looking model does not have the precision at the wire center level to be used to determine support for companies that have relatively few wire centers.

Roseville's Petition for Reconsideration is still pending.[11] Due to the number of other important items before the Commission, we believe that it is unlikely that the Commission will be able to rule on our PFR prior to the phase-out of hold-harmless support.

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[10] Tenth Report and Order, Paragraph 459.

[11] Only two parties opposed the Roseville PFR, and their oppositions had nothing to do with the substance of Roseville's proposal. The State of California was concerned that Roseville was seeking "rural" designation to avoid interconnection obligations under Section 251 of the Act. However, Roseville is not seeking designation as a rural carrier for Section 251 purposes, and furthermore, Roseville is actively meeting its interconnection obligations to a number of CLECs. MCI Worldcom claimed that Roseville had not demonstrated that the model was inaccurate. This is beside the point since Roseville's PFR sought to change the break point for application of the model, which would make the model itself moot, as applied to Roseville. (A copy of Roseville's Consolidated Reply to Oppositions is attached.)

C. <u>The Recommendation of the Rural Task Force</u>

On September 29, 2000 the Rural Task Force issued its Recommendation to the Federal-State Joint Board on Universal Service. Among many proposals for the design and operation of the new explicit fund for rural carriers, the RTF concluded that the forward-looking cost model was not an appropriate tool for the determination of explicit support for the rural carriers. These conclusions were based upon a comprehensive study of the model and are documented in Rural Task Force White Paper 4 *A Review of the FCC's Non-Rural Universal Service Fund Method and the Synthesis Model for Rural Companies*. In the main body of the Recommendation the RTF finds:

> "The aggregate results of this study suggest that, when viewed on an individual rural wire center or individual Rural Carrier basis, the costs generated by the Synthesis Model are likely to vary widely from reasonable estimates of forward-looking costs."[12]

In White Paper 4, the RTF provides additional insight into why it reached its conclusion regarding the applicability of the model:

> "The 'Law of Large Numbers' suggests that for the RBOCs those wire centers where the support results are too high will tend to offset those which are too low, resulting in a reasonable result. This is not the case for many Rural Carriers who serve only a few wire centers, or in some cases, a single wire center."[13]

This same logic is equally applicable to Roseville, which has only two wire centers. The issue here is not so much one of accuracy of the model as it is of precision. In a sense, this is similar to the difference between a yardstick and a micrometer. Both are accurate measuring tools for the purpose for which they were designed. When

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[12] Rural Task Force Recommendation to the Federal-State Joint Board on Universal Service Released September 29, 2000, Page 18.

[13] Rural Task Force White Paper 4, Page 7.

measuring a large object, or a large number of smaller objects laid end-to-end, the yardstick can provide an acceptable measure. However, when measuring extremely small objects, the coarse gradations of the yard stick are just not accurate enough. Here the precision of the micrometer is required.

Precision becomes more important as universal service support as a percentage of a carrier's total revenue requirement increases. The Rural Task Force Recommendation states:

> "[The] high-cost funding of for non-Rural Carriers represents approximately one percent of loop revenue requirements. In contrast, within the group of 1,300 Rural carriers federal universal service support ranges from zero percent to as high as 74 percent of loop revenue requirements."[14]

To see where Roseville fits in this picture, the company did a study of USF payments vs. loop revenue requirements using NECA data.[15] For all non-rural carriers, USF payments represent 0.3% of loop revenue requirements[16] (0.2% if Puerto Rico is excluded from the data[17]). For Roseville, USF represents 4.5% of loop revenue requirements. The following chart shows a comparison of the "big 5" holding companies and Roseville.

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[14] *Id.* at page 8.

[15] NECA 1999 Submission of 1998 Study Results.

[16] Roseville suspects that the difference between the 0.3% it found and the 1% referenced by the RTF is due to the fact that the RTF number includes all explicit support, most notably LTS, while the data that Roseville used was USF only. If LTS were included with Roseville's results the combined USF and LTS would total 17% of loop revenue requirements.

[17] It is useful to look at the data with and without Puerto Rico, since Puerto Rico receives over 40% of the USF funds that go to non-rural study areas.

Company	USF as % of Loop Rev. Req.
Verizon	0.5%
Verizon (w/o PR)	0.2%
SBC	0.0%
BellSouth	0.2%
Sprint	0.1%
U S WEST	0.3%
Roseville	**4.5%**

The same NECA data confirms that for the universe of rural carriers, USF, as a percentage of loop revenue requirements revenues, ranges from 0% to 74%, with the average at 18%. However, of 773 rural study areas that settle on a cost basis, 145 study areas, serving 39% of these rural lines, have a ratio less than Roseville's 4.5%. Thus, in terms of its dependence on USF, Roseville is clearly within the range of the rural carriers, and significantly outside of the range for the non-rural carriers.

II. Good Cause Exists for Grant of a Waiver in This Case.

Section 1.3 of the Commission's rules states that the Commission may waive its rules upon a showing of "good cause". This good cause standard has been interpreted as a requirement that the petitioner show that "special circumstances warrant deviation from the general rule and such deviation will serve the public interest."[18] In the present case, Roseville's circumstances are unique among "non-rural" carriers, and the temporary and limited deviation from the general rule sought in this case will serve the public interest by preventing the loss of Federal high-cost support to Roseville pending Commission consideration of Roseville's PFR. Such a loss of support would put unnecessary pressure on rates paid by Roseville's subscribers for basic service, a

[18] Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

result which is contrary to the Commission's high-cost support policies, and which may be subsequently negated by grant of Roseville's PFR.

As was noted above, Roseville will receive $1.7 million in Federal high-cost support in the year 2000. While this may not be a significant amount for other non-rural companies such as RBOCs, whose annual revenues are in the billions of dollars, it is a very important source of funding to a company such as Roseville, where it constitutes approximately 6% of basic local service revenues. Yet, under the policies enacted in the Ninth Report and Order in CC Docket 96-45, Roseville may lose all of this Federal high cost support. Loss of this support will result in an increase in basic rates paid by Roseville's residential subscribers of around 6%. To date, Roseville has not lost the support, due to the "hold-harmless" provisions contained in Ninth Report and Order. However, on June 30, 2000, the Universal Service Joint Board issued a Recommended Decision which proposed the phase-out of these hold-harmless provisions. It is expected that the Commission will soon rule on this issue, with implementation occurring as soon as January 1, 2001. Unfortunately, the many items currently before the Commission, including these hold-harmless provisions as well as the Recommendation from the Rural Task Force and the recent filing of the Multi-Association Group Access Plan ("MAG Plan"), make it highly unlikely that the Commission will be able to rule on Roseville's PFR prior to the first of the year. Absent the requested waiver, Roseville will lose its high-cost support, and will have to recover that amount from its local subscribers.

The possible loss of Federal support on January 1, 2001, and the subsequent need to recover costs from local subscribers, will be unnecessary and unfortunate if the

Commission subsequently grants Roseville's PFR. Yet, based on the strength of the arguments set forth in the PFR, Roseville believes that there is a significant likelihood that the Commission will grant the PFR. In light of that likelihood that the Commission will conclude that the public interest supports grant of the PFR, and the resulting placement of Roseville in a regulatory category under which it would maintain its current Federal support at least for the moment, it would be contrary to the public interest to impose on Roseville and its subscribers the burden to make up for the temporary loss of Federal support between January 1st and the date that the Commission acts on the PFR.

While continuing the current Federal support for Roseville from January 1, 2001 through resolution of Roseville's pending PFR would serve the public interest in preventing undue pressure on rates for local service, there would be no contravening harm to the public interest. While the Federal high-cost support received by Roseville is significant to the company and its subscribers, it constitutes a small portion of the total Federal high-cost support budget. Roseville's $1.7 million in USF payments in 2000 represented only 0.2% of the total USF payments. Accordingly, while it is unlikely that the Commission would take the entire calendar year 2001 to address the Roseville PFR, even if that were the case, the Federal high cost funds issued as a result of the waiver would be only $1.7 million, which would not substantially increase the burden on contributors to the fund.

Grant of this requested waiver is also consistent with the requirement of special circumstances. Among the universe of non-rural carriers, and especially for the purposes of high-cost support, Roseville is unique. The following Chart shows all of the non-rural study areas that currently receive Federal high-cost support. For comparative purposes it also shows those rural study areas with over 80,000 lines which receive such support.

Non-Rural

State	Study Area Name	Loops*	High Cost Loop HCL Fact.	High Cost Loop Annual*	Wire Centers** Study Area	Wire Centers** Holding Company
CO	U S WEST, INC. – CO	2,700,930	10%	$1,302,924	168	1259
SC	SOUTHERN BELL-SC	1,498,861	10%	$4,189,920	117	1591
MS	SO CENTRAL BELL-MS	1,314,884	10%	$6,806,364	205	1591
KY	SO CENTRAL BELL-KY	1,233,794	10%	$197,904	181	1591
PR	PUERTO RICO TEL CO	1,143,596	10%	$30,095,556	85	6248
AR	SOUTHWESTERN BELL-AR	1,025,080	10%	$3,158,676	138	3217
WV	C & P TEL CO OF WV	842,964	10%	$930,132	142	6248
NM	U S WEST, INC. – NM	803,945	10%	$1,763,376	65	1259
IN	GTE NORTH INC. – IN	771,539	10%	$243,348	76	6248
KY	GTE SOUTH INC. - KY	455,423	10%	$600,888	42	6248
MT	U S WEST, INC. – MT	365,398	10%	$371,028	73	1259
VT	NEW ENGLAND TEL-VT	349,773	10%	$181,668	82	6248
VA	CENTEL OF VIRGINIA	296,195	10%	$1,516,932	62	6248
MO	CONTEL MO DBA GTE MO	266,343	10%	$3,023,904	44	6248
WY	U S WEST, INC. - WY	246,410	10%	$3,820,488	29	1259
TX	CONTEL TX DBA GTE TX	234,478	10%	$899,556	175	6248
TX	CENTEL OF TEXAS	223,660	10%	$296,892	49	1371
NC	GTE SOUTH INC - NC	219,617	10%	$958,272	27	6248
PR	P R T C - CENTRAL	172,480	65%	$26,333,316	2	6248
AL	GTE SOUTH INC. - AL	167,300	65%	$5,597,544	38	6248
MO	GTE NORTH INC. - MO	130,892	65%	$6,994,752	44	6248
CA	ROSEVILLE TEL CO	122,593	65%	$1,727,100	2	2
AL	CONTEL AL DBA GTE	121,946	65%	$3,799,488	53	6248

Non-Rural list includes all Non-Rural Study Areas that receive HCL support

Rural

State	Study Area Name	Loops*	High Cost Loop HCL Fact.	High Cost Loop Annual*	Wire Centers** Study Area	Wire Centers** Holding Company
GA	ALLTEL GEORGIA COMM.	306,393	10%	$2,695,212	69	596
NY	CITIZENS TELECOM-NY	263,703	10%	$1,423,896	126	387
MO	UTC OF MISSOURI	259,996	10%	$1,665,900	80	1371
WA	CENTURYTEL-WA	169,839	65%	$14,547,288	N/A	231
TX	UTC OF TEXAS INC	161,370	65%	$18,998,424	60	1371
MN	UTC OF MINNESOTA	153,689	65%	$1,732,824	46	1371
ID	GTE NORTHWEST INC-ID	131,106	65%	$6,554,700	29	6248
TX	LUFKIN-CONROE TEL EX	109,385	65%	$3,074,088	16	16
CA	CITIZENS UTIL OF CA	108,923	65%	$9,062,268	34	387
AR	CONTEL AR DBA GTE AR	105,452	65%	$3,197,976	44	6248
AR	ALLTEL ARKANSAS INC	103,169	65%	$9,481,116	61	596
SC	UTC OF THE CAROLINAS	102,831	65%	$1,439,340	19	1371
KY	CONTEL KY DBA GTE KY	95,776	65%	$5,735,916	42	6248
AZ	CITIZENS UTILITIES	90,019	65%	$4,640,964	16	387
GA	GEORGIA ALLTEL TELCO	89,250	65%	$5,375,880	40	596
AR	GTE SOUTHWEST INC-AR	88,040	65%	$8,416,584	47	6248
WV	CUC DBA CITIZENS WVA	87,574	65%	$7,672,260	57	387
WA	UTC OF THE NW-WA	86,881	65%	$289,368	31	1371
FL	ALLTEL FLORIDA INC.	83,655	65%	$2,474,424	27	596

Rural list includes all Rural Study Areas over 80K lines that receive HCL support

SOURCE * NECA 4Q2000 Administrative
** BCPM 3.0

From this chart the following observations can be made:

- Roseville is the second smallest of the non-rural study areas
- Roseville is the only non-rural study area that is not part of a large holding company.
- Roseville has only two central offices. All of the other non-rural study areas are served by one of five large holding companies, each with over 1,000 central offices:
  - Verizon 6,248
  - SBC 3,217
  - BellSouth 1,591
  - Sprint 1,371
  - Qwest 1,259
- Roseville looks a lot more like the rural study areas than the non-rural.

The facts regarding size of study area, the number of central offices therein, and the relationship to a large holding company with a large number of central offices are critical to high-cost support policy, and in regards to these criteria, Roseville's study area is unique among the "non-rural" study areas with which it has been categorized.

In addition to comparison of study areas, comparison of Roseville to other companies shows that Roseville is unique in the relevant facts. Roseville is the smallest non-rural LEC. Even among mid-sized companies, Roseville is unique in this matter, as each of those companies (*e.g.*, ALLTEL Corp., Century Telephone and Citizens Utilities), while larger in total access lines, has only rural study areas, and thus will not lose their Federal high-cost support on January 1, 2001.

In addition to being uniquely situated among non-rural LECs in regards to company and study area size, Roseville is the only non-rural company currently receiving Federal support that is a rate-of-return carrier.[19] Roseville's rate-of-return status is particularly important in light of the recent filing of the MAG Plan. That filing states:

> "[This] plan seeks to address in a comprehensive manner the numerous issues that face non-price cap LECs. The plan would create more efficient cost recovery under the Commission's access charge system while making universal service support more explicit...."

Roseville actively participated in the development of the MAG Plan, and believes that together with the Recommendation of the Rural Task Force, a basis has been created for a holistic consideration of the many critical issues that face rate-of-return LECs and their customers in the new environment created by the 1996 Telecommunications Act. Yet, without the grant of the waiver sought herein, Roseville would be the only rate-of-return LEC to not benefit from this holistic treatment. This would be the case since Roseville's universal service payments would be determined as though it were a price cap carrier (due to Roseville's "non-rural" status), while its access reform would be from the rate-of-return plan. Under the universal service rules designed for the for the price cap companies, Roseville receives no federal high-cost support. Yet, as demonstrated throughout this filing, Roseville is not at all like the price cap LECs with which it finds itself grouped for universal service funding. Thus, grant of the waiver sought herein will allow for the holistic consideration of Roseville's universal service and access reform needs as part of the universe of rate-of-return companies.

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19 In ordering a remedy similar to the one sought here, the Commission recently waived Section 61.41 of its rules to extend through June 30, 2001 the deadline by which the Puerto Rico Telephone Company must convert from rate-of-return to price cap status. *See* Order, FCC 00-199 (released June 5, 2000).

III. Conclusion

Grant of a limited waiver to allow Roseville to continue to receive Federal high-cost support subsequent to the elimination of "hold-harmless" support for non-rural carriers, while Commission action on Roseville's PFR is pending, will serve the public interest by preventing pressure on Roseville's local rates that may be subsequently negated if its PFR is granted. Furthermore, the relevant factual circumstances regarding the company size, number of wire centers served and rate-of-return status enhance the likelihood of grant of the PFR, make Roseville unique among non-rural carriers, and limit the applicability of the requested waiver to Roseville.

WHEREFORE, Roseville Telephone Company requests a limited waiver of Section 54.309 of its Rules, to allow it to continue computing its high cost loop support using the rules contained in Part 36 Subpart F subsequent to the elimination of "hold-harmless" support, pending the Commission's action on Roseville's Petition for Reconsideration of the Tenth Report and Order in CC Dockets 96-45 and 97-160.

Respectfully submitted,

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November 13, 2000

CERTIFICATE OF SERVICE

I, Joan P. George, a secretary in the law firm of Fletcher, Heald & Hildreth, do hereby certify that a true copy of the foregoing *Supplement to Petition for Limited Waiver* was sent this 18th day of June, 2001 by hand where indicated and via United States First Class Mail, postage prepaid, to the following:

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